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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
Direct Dial Number
202/434-7301

March 24, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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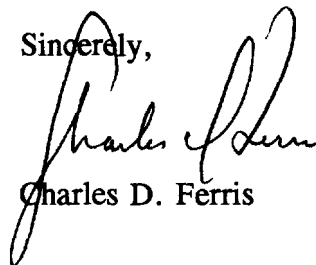
Re: MM Docket No. 92-265
Notice of Ex Parte Presentation

Dear Ms. Searcy:

Enclosed please find two copies of material provided today to Commissioner Andrew C. Barrett in connection with the above-captioned proceeding, on behalf of Rainbow Programming Holdings, Inc.

This letter is furnished for inclusion in the public record of the above-captioned docket in compliance with Section 1.1206(a)(1) of the Commission's rules. Please direct any questions regarding the foregoing to the undersigned.

Sincerely,



Charles D. Ferris

Enclosures
D15055.1

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FEDERAL COMMUNICATIONS COMMISSION
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Rainbow Programming Holdings, Inc.
Ex Parte Presentation
MM Docket 92-265
March 24, 1993

PROGRAM ACCESS: OFFERING OF SERVICE

The 1992 Cable Act permits differences in pricing based upon, *inter alia*, differences in the "offering of service." The Commission should take into account the manner in which a multichannel video programming distributor positions a particular programming service (as well as, among other things, all other material contract terms and conditions, and the effectiveness, quality and service offerings of the distributor) in determining whether the price, terms, and conditions under which the programming is made available to the distributor constitutes "discrimination" under Section 19 of the 1992 Cable Act.

A Rainbow-managed program service may be offered in some instances as part of the entry level basic tier of satellite services; in other instances as a stand-alone *a la carte* service; and in still other cases as part of a "hybrid" configuration (*e.g.*, a discretionary package with or without an *a la carte* option). *Multichannel video programming distributors who offer a particular service in different configurations (e.g., a la carte (like HBO) vs. as part of the entry level basic tier (like CNN) vs. a "hybrid" configuration) should not be entitled to comparable rates even if all other factors are comparable.* If the Commission decides to adopt a regulatory scheme under which a range of wholesale programming charges in comparable situations would be presumed reasonable and non-discriminatory, a separate range should be adopted for each mode of positioning described above. Rates outside such a range should not be deemed presumptively *unreasonable*.

D15055.1

Two copies of this ex parte presentation have been submitted to the Secretary, FCC.

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